IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

MFA.No. 317 of 2003(B)

(OP(MV).741/1995 of M.A.C.T., KALPETTA DTD.5.7.2002)

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APPELLANT/PETITIONER:

P.ASHRAF, S/O.THORAPPAN MOHAMMED,
PUTHIYODATH HOUSE, POST KUPPADI, BATTERY
TALUK, WAYANAD DIST.

BY ADV. SRI.G.BALAMURALEEDHARAN (PARAVUR)
SRI.N.T.NANDAKUMAR (PARAVUR)

RESPONDENTS/RESPONDENTS:

1. M.BABU, S/O.A.M.GEORGE, AGE NOT KNOWN
ARAPARAYIL VEEDU, KUPPADI POST, BATHERY
TALUK, WAYANAD.

2. YOHANNAN @ THANKACHAN, S/O.K.C.THOMAS,
VENDOORKUNNU, VRINDAVANAM, KUPPADI POST,
BATHERY TALUK, WAYANAD.
(DRIVER OF BUS KL-I-/6489)

3. THE ORIENTAL INSURANCE COMPANY LTD.,
BRANCH OFFICE, MAVOOR ROAD, KOZHIKODE,
KOZHIKODE DIST.

R3 BY ADV. SRI.M.JACOB MURICKAN
R1 & R2 BY ADV.SRI.T.M.CHANDRAN
SRI.JOSHI VARGHESE
SRI.RAJU PAUL C.OLICKAL
SRI.S.SUJITH
SRI.R.ARUN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD

ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No. 317 OF 2003 - B

Dated this the 13th day of March, 2007

J U D G M E N T

The petitioner in O.P.(MV) No.741 of 1995 on the file of the Motor Accidents Claims Tribunal, Kalpetta is the appellant herein. This appeal is filed challenging inadequacy of the compensation awarded to the appellant. Petitioner met with a motor vehicle accident. He filed a petition claiming an amount of Rupees One lakh as compensation. The Tribunal found that the accident occurred due to the negligence of the driver of the offending vehicle. The Tribunal also found that the petitioner sustained injuries and he is entitled to compensation. The Tribunal awarded an amount of Rs.47,850/-. Challenging that award, this appeal is filed.

2. The only question arising for consideration is whether petitioner is entitled to any additional compensation. The petitioner produced disability certificate which is marked as Ext.A4. The Tribunal did not act upon that disability certificate. The Doctor had assessed the disability of 10%. The appellant was discharged on 23.08.1995 and he was examined on 30.03.1996. The learned counsel for the insurer has strenuously argued that the examination was conducted within six months from the date of discharge and as

such it is not possible to assess the permanent disability correctly and that is why the Tribunal rejected Ext.A4.

3. I do not find any reason to interfere with the above finding of the Tribunal. Petitioner claimed an amount of Rs.20,000/- for pain and suffering against which the Tribunal awarded an amount of Rs.10,000/-. The evidence adduced in this case shows that the petitioner sustained fracture and underwent operation and he was in the hospital as an inpatient for more than 28 days. So the Tribunal ought to have ordered at least an amount of Rs.17,500/- for pain and suffering. I am of the view that the petitioner is entitled to get further amount of Rs.7500/- as additional compensation which will carry 7% interest from the date of petition.

4. In the result, the appeal is allowed in part. In addition to the compensation awarded by the Tribunal, the petitioner is entitled to get further amount of Rs.7500/- with 7% interest from the date of petition till the date of payment. The amount shall be paid by the insurer to the appellant.

K.PADMANABHAN NAIR,
JUDGE.

Mbs/

K.PADMANABHAN NAIR, J

M.F.A.NO.317 OF 2003

JUDGMENT

DATED: 13-03-2007